

**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF MINNESOTA**

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In re: MATTHEW MARK HIGGINS,  
AMY BETH HIGGINS,  
  
Debtors.

Bky. Case No.: **03-36033 DDO**  
Chapter 7

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CHARLES W. RIES, TRUSTEE,  
  
Plaintiff,

vs.

ROCHESTER MOTOR COMPANY,  
dba ROCHESTER FORD, and  
AFFINITY PLUS FEDERAL CREDIT UNION,

Defendants.

Adv. Case No.: **04-3247 DDO**

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**AFFIDAVIT OF JODI SCHRAMEL**

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STATE OF MINNESOTA    )  
                                  ) ss.  
COUNTY OF RAMSEY    )

Jodi Schramel, being first duly sworn on oath, deposes and states as follows:

1. That affiant is Solutions Consultant for Affinity Plus Federal Credit Union, 2730 Snelling Avenue North, Roseville, Minnesota 55113.
2. That all matters alleged in this Affidavit, and the attached exhibits, pertain to matters and facts alleged or referenced in the pleadings for the above-captioned matter.

3. On August 4, 2003, thirty days before filing bankruptcy, Debtor Matthew Mark Higgins entered into a contract to trade the 2001 Mazda 626 for \$7,250.00, the note for which was held by Defendant Affinity Plus Federal Credit Union and co-signed by both Matthew Mark Higgins and Randy A. Higgins, and together with Debtor Amy Beth Higgins co-signed the note held by Rochester Ford for the financing and purchase of a 2003 Ford Escort ZX2. In the terms of the contract, as is standard business practice, Rochester Ford agreed to advance payment to Defendant Affinity Plus Federal Credit Union in the full amount owing by Debtor Matthew Mark Higgins and non-filing co-signor Randy A. Higgins for release of the lien on the 2001 Mazda 626.

4. On August 12, 2003, shortly after the trade, Defendant Affinity Plus Federal Credit Union received a check from Rochester Ford-Toyota in the sum of \$16,669.00, pursuant to and in execution of the terms of the trade, for payment in full of the debt owed by Matthew and Randy Higgins and release of its lien on the 2001 Mazda 626.

5. On August 12, 2003, Defendant Affinity Plus Federal Credit Union posted the monies to the account of Matthew Mark Higgins and Randy A. Higgins, and released its lien on the 2001 Mazda 626.

6. On September 3, 2003, Debtors Matthew Mark Higgins and Amy Beth Higgins filed for joint chapter 7 bankruptcy relief, listing an exemption for the 2003 Ford Escort on their Schedule C, pursuant to 11 U.S.C. §522(d)(2), and also, in their Statement of Financial Affairs, stating their intent to surrender the vehicle. Plaintiff/Trustee did not object to the Debtors exemption.

7. On May 4, 2004, Plaintiff filed its Complaint against both Defendant Rochester Motor Company, dba Rochester Ford and Defendant Affinity Plus Federal Credit Union seeking: determination that an alleged transfer of \$4,000.00 constitutes both a transfer in interest of property of the Debtors and a preference; avoidance of the alleged transfer as preferential; an award of judgment against Defendants for \$4,000.00; an award of attorneys fees, costs and disbursements; and other relief as is just and proper.

8. On May 19, 2004, Defendant Affinity Plus Federal Credit Union filed and served its Answer to Plaintiff's Complaint in this matter.

9. On June 4, 2004, Defendant Rochester Motor Company, dba Rochester Ford filed its Answer to Plaintiff's Complaint in this matter.

10. On June 25, 2004, Defendant Affinity Plus Federal Credit Union served its Request for Admissions, Interrogatories, and Requests for Production of Documents upon Plaintiff.

11. On June 29, 2004, Defendant Affinity Plus Federal Credit Union filed and served Notice of Additional Defense specifically and affirmatively pleading the earmarking doctrine in its defense against the Plaintiff's claims.

12. On June 30, 2004, Defendant Affinity Plus Federal Credit Union received Trustee's Interrogatories to Defendants and Requests for Production of Documents to Defendants.

13. On July 23, 2004, Defendant Affinity Plus Federal Credit Union served its Response to Trustee's Interrogatories to Defendant and Requests for Production of Documents.

FURTHER YOUR AFFIANT SAYETH NOT.

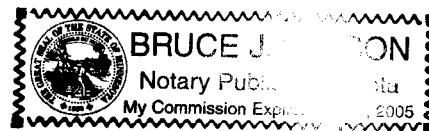
Dated: August 24<sup>th</sup>, 2004.

AFFINITY PLUS FEDERAL CREDIT UNION

Jodi Schramel  
Jodi Schramel

Its: Solutions Consultant

Subscribed and sworn to before me  
this 24<sup>th</sup> day of August, 2004.



[Signature]  
Notary Public